



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 26633N San Rafael Canal Berth Dredging

DATE: May 12, 2003

RESPONSE REQUIRED BY: May 27, 2003

Regulatory Branch
333 Market Street

San Francisco, CA 94105-2197

PERMIT MANAGER: Clyde Davis

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1. INTRODUCTION: The City of San Rafael (through its agent, Mr. M. H. Cheney, 6630 Heartwood Drive, Oakland, California, 94611) has applied to sponsor a five-year Department of the Army Regional Permit to maintenance dredge one time the private berths adjacent to the San Rafael Canal and Lowries Marina in the City of San Rafael, Marin County, California. The purpose of the proposed dredging is to maintain berth depth at the same level as the access channel depth in order to maintain safe, navigable depths at berthing areas adjacent to the federal channel and to provide access from the berths to the channel. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. PROJECT DESCRIPTION: As shown in the attached drawings, the applicant plans to permit the removal of up to 100,000 cubic yards (CY) of sediment from approximately 280 separate properties. Depending on the number of berths at each parcel, each will yield 100 to 1,000 cy; Lowrie Yacht Harbor may have 15,000 cy. The total area is approximately 8.7 acres. Dredging would take place over a period of five years. Existing depths in the dredge areas are about -3.5 feet MLLW (mean lower low water). The design depth for these areas is -6 feet MLLW plus an additional 1-foot overdredge allowance. The material would be removed using a clamshell and transported by barge for disposal to the San Pablo Bay Disposal Site (SF-10). Approximately 10,000 CY of material from the upper end of the project is contaminated and would be taken to Winter Island for upland disposal.

The Dredge Material Management Office (DMMO) has evaluated the test results for disposal or reuse suitability. The DMMO includes representatives from the U.S. Environmental Protection Agency, San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers (Corps). The DMMO is tasked with approving sampling and analysis plans in conformity with testing manuals, reviewing the test results and reaching consensus regarding a suitable disposition for the material.

The San Rafael Canal has a federal channel that is routinely dredged by the U.S. Army Corps of Engineers (Corps). The Chemical, Physical and Biological testing the Corps did for the recent channel dredging has been accepted by the DMMO to characterize these adjacent non-federal project berths. Results of the Corps testing showed contamination of the sediments in the upper reach of the channel and it was determined that the material dredged from station 174 (between Harbor and Hoag Streets) to the Grand Avenue bridge, would be required to be disposed at Winter Island, an upland site. Material from Bayward of station 174 was authorized for aquatic disposal at SF – 10 or SF – 11 depending on the time the listed salmonids are present in the Bay. These same disposal requirements would be made a condition of this Regional Permit.

Additional testing is proposed by the homeowners to evaluate for contamination of the material in the berths in the upper reach. Suitability will then be

reconsidered by the DMMO for aquatic disposal of that material.

3. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required certification. A waiver shall be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after receipt, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this Public Notice.

The project is within the jurisdictional purview of the BCDC. The applicant will be required to obtain a permit from BCDC after the RWQCB has made a determination of water quality certification for this project.

4. ENVIRONMENTAL ASSESSMENT: The Corps of Engineers will assess the environmental impacts of the proposed project in accordance with the requirements of the National Environmental Policy Act (42 U.S.C. 4371 et. seq.), and pursuant to Council on Environmental Quality's Regulations 40 CFR 1500-1508, and USACE Regulations 33 CFR 230 and 325, Appendix B. Unless otherwise stated, this Environmental Assessment describes only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of this Environmental Assessment are on file in the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San

Francisco, California.

5. EVALUATION OF ALTERNATIVES: Evaluation of this activity's impact on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. 1344(b)). In particular, alternative disposal sites and beneficial reuses will be considered by the applicant to conform to the *Management Plan 2001*, Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay, dated July 2001.

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed

activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this Notice and should be forwarded so as to reach this office within the comment period specified on page one of this Notice. Comments should be sent to: Mr. Clyde Davis, Regulatory Branch. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this Notice, or by contacting Mr. Clyde Davis of our office at telephone (415) 977-8449 or by e-mail at clyde.r.davis@usace.army.mil. Details on any changes of a minor nature, which are made in the final permit action will be provided on request.